



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R1-ES-2019-0096; FF09E21000 FXES1111090FEDR 223]

Endangered and Threatened Wildlife and Plants; Withdrawal of the Not-warranted Finding for Endangered or Threatened Status for the North Oregon Coast Distinct Population Segment of Red Tree Vole

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of withdrawal of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), notify the public that we are withdrawing our December 19, 2019, not-warranted 12-month finding for the north Oregon coast distinct population segment (DPS) of red tree vole (*Arborimus longicaudus*) under the Endangered Species Act of 1973, as amended (Act). This document returns the north Oregon coast DPS of red tree vole to our candidate list. We are initiating a new status review of the north Oregon coast DPS of red tree vole to determine whether it meets the definition of an endangered or threatened species under the Act and requesting new information on the DPS's distribution and abundance, its habitat, conservation efforts for it, or its threats for consideration in the new 12-month finding.

DATES: Although we welcome new information submissions at any time, to ensure that we can fully consider your information in the new status assessment, please submit it on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Document availability:* You may obtain copies of the December 19, 2019, 12-month finding and supporting documents on the internet at

<https://www.regulations.gov> under Docket No. FWS-R1-ES-2019-0096, or by mail from the Oregon Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

New information submission: You may submit new information regarding the north Oregon coast DPS of red tree vole by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<https://www.regulations.gov>. In the Search box, enter FWS-R1-ES-2019-0096, which is the docket number for this document. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit information by clicking on “Comment.”

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R1-ES-2019-0096, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you submit new information only by the methods described above. We will post all submissions on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Public Availability of Comments**, below, for more information).

FOR FURTHER INFORMATION CONTACT: Craig Rowland, Acting State Supervisor, Oregon Fish and Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266; telephone (503) 231–6179. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Species Information

Please refer to the 2019 not-warranted 12-month finding (84 FR 69707; December 19, 2019) and supporting documents available at <https://www.regulations.gov> under Docket No. FWS-R1-ES-2019-0096 for more detailed information about the Oregon coast DPS of red tree vole's taxonomy, life history, habitat and food requirements, and geographic range and distribution. Please also refer to our 2011 warranted-but-precluded 12-month finding (76 FR 63720; October 13, 2011) on a petition to list the north Oregon coast DPS of red tree vole for a detailed evaluation of this DPS under our DPS policy. Our DPS policy published in the *Federal Register* on February 7, 1996 (61 FR 4722).

Red tree voles (*Arborimus longicaudus*) are small, mouse-sized rodents that live in conifer forests and spend almost all their time in the tree canopy. They are one of the few animals that can persist on a diet of conifer needles, their principal food. Red tree voles are endemic to the humid, coniferous forests of western Oregon (generally west of the crest of the Cascade Range) and northwestern California (north of the Klamath River). The north Oregon coast DPS of red tree vole comprises that portion of the Oregon Coast Range from the Columbia River south to the Siuslaw River. Red tree voles demonstrate strong selection for nesting in older conifer forests.

Previous Federal Actions

On June 18, 2007, we received a petition from Center for Biological Diversity, Oregon Chapter of the Sierra Club, Audubon Society of Portland, Cascadia Wildlands Project, and OregonWild to list the dusky tree vole (*Arborimus longicaudus silvicola*) as endangered or threatened throughout its range under the Act (16 U.S.C. 1531 et seq.). The petitioners also gave the Service two other listing options to consider if we determined that the subspecies was not a valid listable entity: (1) List the north Oregon

coast population of the red tree vole (*A. longicaudus*) as a DPS, or (2) List the red tree vole throughout all its range because it is endangered or threatened in a significant portion of its range.

On October 28, 2008, we published a 90-day finding in the *Federal Register* (73 FR 63919) concluding that the petition presented substantial information indicating that listing the north Oregon coast DPS of the red tree vole may be warranted, and we initiated a status review. During that review, the best available scientific and commercial data led us to conclude that the dusky tree vole is not a valid subspecies for the purpose of our analysis, and we, therefore, focused our analysis on the north Oregon coast population of the red tree vole.

On October 13, 2011, we published in the *Federal Register* (76 FR 63720) a 12-month finding in which we stated that listing the north Oregon coast population of the red tree vole as a DPS was warranted primarily due to habitat loss. However, listing was precluded at that time by higher priority actions, and the DPS of the red tree vole was added to our candidate species list.

From 2012 through 2016, we addressed the status of the north Oregon coast DPS of the red tree vole annually in our candidate notice of review, with the determination that listing was warranted but precluded (see 77 FR 69994, November 21, 2012; 78 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014; 80 FR 80584, December 24, 2015; 81 FR 87246, December 2, 2016). Our 2019 candidate notice of review (84 FR 54732; October 10, 2019) retained that determination but also stated that we were working on a thorough review of all available data for the DPS.

On December 19, 2019, after completing a species status assessment, we published in the *Federal Register* (84 FR 69707) a 12-month finding determining that the north Oregon coast DPS of the red tree vole was not warranted for listing as endangered or threatened under the Act.

The petitioners filed a complaint in March 2021, challenging our December 19, 2019, not-warranted finding. We reached a settlement agreement with the petitioners, which was approved by the court on May 23, 2022, to reconsider our not-warranted finding and to develop a new 12-month finding as to whether the north Oregon coast DPS of the red tree vole warrants listing as an endangered or threatened species.

This Document

In accordance with the settlement agreement mentioned above, we are withdrawing our December 19, 2019, 12-month finding determining that the north Oregon coast DPS of the red tree vole is not warranted for listing as endangered or threatened under the Act (84 FR 69707). The withdrawal returns the north Oregon coast DPS of red tree vole to our candidate list, and the status of the DPS under the Act has, therefore, reverted to that of a candidate species for the purposes of consultation under section 7 of the Act.

We are initiating a new status review of the north Oregon coast DPS of the red tree vole to determine whether this DPS meets the definition of an endangered or threatened species under the Act, or whether the DPS is not warranted for listing. Under the settlement agreement, we will submit to the *Federal Register* a new 12-month finding on the status of the DPS by January 31, 2024.

Request for Information

We are requesting the submission of any further information pertaining to the north Oregon coast DPS of red tree vole that has become available since, or was not considered in, the 2019 status review. While we will accept new information on the red tree vole at any time, we request that new information be submitted no later than the date specified above under **DATES** to provide adequate time to incorporate it into our status review. We are particularly interested in the following types of information pertaining to the north Oregon coast DPS of red tree vole:

- (1) Distribution, ecology, and life history of the DPS, including habitat needs and requirements for reproduction, growth, nutrition, and dispersal;
- (2) Positive and negative survey information on the DPS;
- (3) Potential stressors to the DPS or its habitat, including the threat of catastrophic wildfire;
- (4) Ongoing and planned activities or projects in the areas occupied by the DPS, and possible impacts of these activities on the DPS;
- (5) Whether there are any areas outside the area currently known to be occupied by the DPS that may be important to its conservation; and
- (6) Past, current, and future conservation actions or management practices that may benefit the DPS or its habitat.

We will consider new information submitted to us in our new 12-month finding for the north coast DPS of the red tree vole. You may submit new information and materials by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your submission, be advised that your entire submission—including your personal identifying information—may be made publicly available at any time. Although you can ask us in your submission to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Authors

The primary authors of this notice are staff members of the Pacific Regional Office, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended

(16 U.S.C. 1531 et seq.).

Stephen Guertin,

Acting Director,

U.S. Fish and Wildlife Service.

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